

**§ 1250.357**

(c) The extent to which the commercial egg producer membership of such organization is represented in setting the organization's policies;

(d) Evidence of stability and permanency of the organization;

(e) Sources from which the organization's operating funds are derived;

(f) Functions of the organization; and

(g) The organization's ability and willingness to further the aims and objectives of the act.

The primary consideration in determining the eligibility of an organization shall be whether its egg producer membership consists of a substantial number of egg producers who produce a substantial volume of the applicable geographic area's commercial eggs to reasonably warrant its participation in the nomination of members for the Board or to request the issuance of an order. The Secretary shall certify any organization which he finds to be eligible under this section and his determination as to eligibility shall be final.

**MISCELLANEOUS**

**§ 1250.357 Suspension and termination.**

(a) The Secretary shall, whenever he finds that this subpart or any provision thereof obstructs or does not tend to effectuate the declared policy of the act, terminate or suspend the operation of this subpart or such provision.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 percent or more of the number of egg producers voting in the referendum approving this subpart, to determine whether egg producers favor the termination or suspension of this subpart, and the Secretary shall suspend or terminate such subpart at the end of 6 months after he determines that suspension or termination of the subpart is approved or favored by a majority of the egg producers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the production of commercial eggs, and who produced more than 50 percent of the volume of eggs produced by the egg producers voting in the referendum.

**7 CFR Ch. XI (1-1-07 Edition)**

**§ 1250.358 Proceedings after termination.**

(a) Upon the termination of this subpart the Board shall recommend not more than six of its members to the Secretary to serve as trustees for the purpose of liquidating the affairs of the Board. Such persons, upon designation by the Secretary, shall become trustees of all the funds and property then in the possession or under control of the Board, including claims for any funds unpaid or property not delivered or any other claim existing at the time of such termination.

(b) The said trustees shall: (1) Continue in such capacity until discharged by the Secretary, (2) carry out the obligations of the Board under any contracts or agreements entered into by it pursuant to § 1250.336, (3) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and of the trustees, to such person as the Secretary may direct, and (4) upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the Board or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to this subpart shall be subject to the same obligation imposed upon the Board and upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be turned over to the Secretary to be disposed of, to the extent practicable, in the interest of continuing one or more of the research or promotion programs hitherto authorized.

**§ 1250.359 Effect of termination or amendment.**

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant hereto, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may hereafter

## Agricultural Marketing Service, USDA

## § 1250.500

arise in connection with any provision of this subpart or any regulation issued thereunder;

(b) Release or extinguish any violation of this subpart or any regulation issued hereunder; or

(c) Affect or impair any rights or remedies of the United States, or of the Secretary, or of any person, with respect to any such violation.

### § 1250.360 [Reserved]

### § 1250.361 Right of the Secretary.

All fiscal matters, programs or projects, rules or regulations, reports, or other substantive action proposed and prepared by the Board shall be submitted to the Secretary for his approval.

### § 1250.362 Amendments.

Amendments to this subpart may be proposed, from time to time, by the Board, or by an organization certified pursuant to section 16 of the act, or by any interested person affected by the provisions of the act, including the Secretary.

### § 1250.363 Separability.

If any provision of this subpart is declared invalid or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of this subpart of the applicability thereof to other persons or circumstances shall not be affected thereby.

## Subpart—Rules and Regulations

SOURCE: 41 FR 22925, June 8, 1976, unless otherwise noted.

### DEFINITIONS

### § 1250.500 Terms defined.

Unless otherwise defined in this subpart, definitions of terms used in this subpart shall be those definitions of terms defined in the Egg Research and Consumer Information Act, hereinafter called the Act, and the Egg Research and Promotion Order, hereinafter called the Order.

(a) *Act*. “Act” means the Egg Research and Consumer Information Act as it may be amended (Pub. L. 93-428).

(b) *Secretary*. “Secretary” means the Secretary of Agriculture or any other officer or employee of the Department of Agriculture to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

(c) *Egg Board or Board*. “Egg Board” or “Board” or other designatory term adopted by such Board, with the approval of the Secretary, means the administrative body established pursuant to § 1250.326.

(d) *Fiscal period*. “Fiscal period” means the calendar year unless the Egg Board, with the approval of the Secretary, selects some other budgetary period.

(e) *Egg producer or producer*. “Egg producer” or “producer” means any person who either:

(1) Is an egg farmer who acquires and owns laying hens, chicks, and/or started pullets for the purpose of and is engaged in the production of commercial eggs; or

(2) Is a person who supplied or supplies laying hens, chicks, and/or started pullets to an egg farmer for the purpose of producing commercial eggs pursuant to an oral or written contractual agreement for the production of commercial eggs. Such person is deemed to be the owner of such laying hens unless it is established in writing, to the satisfaction of the Secretary or the Egg Board, that actual ownership of the laying hens is in some other party to the contract. In the event the party to an oral contract who supplied or supplies the laying hens cannot be readily identified by the Secretary or the Egg Board, the person who has immediate possession and control over the laying hens at the egg production facility shall be deemed to be the owner of such hens unless written notice is provided to the Secretary or the Egg Board, signed by the parties to said oral contract, clearly stating that the eggs are being produced under a contractual agreement and identifying the party (or parties) under said contract who is the owner of the hens.

(f) *Commercial eggs or eggs*. “Commercial eggs” or “eggs” means eggs from domesticated chickens which are sold for human consumption either in shell